
EQUIPMENT LEASE

Dated as of January 15, 1974

7401-C

AMONG

REGISTRATION NO. _____ Filed 2/15/74

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INTERSTATE COMMERCE COMMISSION

**EXCHANGE NATIONAL BANK OF CHICAGO
as Trustee under CLINCHFIELD TRUST NO. 74-1**

as Lessor

AND

SEABOARD COAST LINE RAILROAD COMPANY

and

LOUISVILLE & NASHVILLE RAILROAD COMPANY

as Joint and Several Lessees

(Clinchfield Trust No. 74-1)

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THIS EQUIPMENT LEASE dated as of January 15, 1974 between EXCHANGE NATIONAL BANK OF CHICAGO, as Trustee (the "Lessor") under Trust Agreement dated as of January 15, 1974 (the "Trust Agreement") with WESTINGHOUSE CREDIT CORPORATION, a Delaware corporation (the "Trustor") relating to Clinchfield Trust No. 74-1 (the "Lessor") and SEABOARD COAST LINE RAILROAD COMPANY, a Virginia corporation ("Seaboard"), and LOUISVILLE & NASHVILLE RAILROAD COMPANY, a Kentucky corporation ("Louisville & Nashville"), jointly and severally (said Seaboard and Louisville & Nashville being hereinafter sometimes collectively referred to as the "Lessees", which Lessees jointly and severally lease and operate, through the separate organization known as "Clinchfield Railroad Company," and as a separately owned property, the lines of railroad leased from Carolina, Clinchfield and Ohio Railway and Carolina, Clinchfield and Ohio Railway of South Carolina).

W I T N E S S E T H:

WHEREAS, the Lessor and the Lessees have entered into an Acquisition Agreement dated the date hereof (the "Acquisition Agreement") with GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION), (the "Manufacturer") providing for the acquisition by the Lessor of the railroad equipment (collectively the "Equipment" and individually as "Item of Equipment") described in Schedule A attached hereto and made a part hereof; and

WHEREAS, the Lessor and the Lessees have entered into a Conditional Sale Agreement, dated the date hereof (the "Conditional Sale Agreement"), with the Manufacturer, providing for the manufacture, sale and delivery to the Lessor of the Items of Equipment described in Schedule A; and

WHEREAS, by instrument of Agreement and Assignment dated the date hereof, the Manufacturer has assigned or will assign its right, security title and interest under the Conditional Sale Agreement to THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, as Assignee (the "Assignee"); and

WHEREAS, the Lessees desire to lease all of the Items of Equipment or such lesser number as are delivered to and accepted under the Conditional Sale Agreement on or prior to the outside delivery date set forth in said Schedule, at the rentals and for the terms and upon the conditions hereinafter provided and to operate the Equipment on the line of railroad of the Clinchfield Railroad Company.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessees, the Lessor hereby leases the Equipment to the Lessees upon the following terms and conditions, namely, but subject to all the rights and remedies of the Manufacturer and its assigns under the Conditional Sale Agreement.

SECTION 1. DELIVERY AND ACCEPTANCE OF EQUIPMENT

The Lessor will cause each Item of Equipment to be tendered to the Lessees at the place of delivery set forth in Schedule A. Upon such tender, the Lessees will cause an authorized representative of the Lessees to inspect the same, and if such Item of Equipment is found to conform to the specifications therefor, to accept delivery of such Item of Equipment and to execute and deliver to the Lessor and to the Manufacturer, a certificate of acceptance (hereinafter called "Certificate of Acceptance") substantially in the form attached hereto as Schedule B, whereupon such Item of Equipment shall be deemed to have been delivered to and accepted by the Lessees and shall be subject thereafter to all of the terms and conditions of this Lease.

SECTION 2. RENTALS AND PAYMENT DATES.

2.1. Rentals for Equipment. The Lessee agrees to pay the Lessor the following Rent for each Item of Equipment leased hereunder:

(a) Interim Rental. For all Items of Equipment an amount per day per Item of Equipment for the period from and including the date of acceptance of each Item of Equipment pursuant to Section 1 of this Lease to but not including July 1, 1974 (but in no event less than 120 days per Item of Equipment) equal to 0.033358% of the Purchase Price of each such Item of Equipment.

(b) Fixed Rental. For each Item of Equipment thirty (30) semiannual installments of Fixed Rental each payable in arrears in the amount provided for such Item of Equipment in Schedule A hereto.

2.2. Rental Payment Dates. The total amount of Interim Rental provided for in Section 2.1(a) above shall be due and payable on July 1, 1974. The installments of Fixed Rental provided for in Section 2.1(b) above shall be due and payable semiannually on the first day of January and July commencing on January 1, 1975 to and including July 1, 1989.

2.3. Place of Rent Payment. Subject to the rights of the Assignee set forth in Section 16 hereof, all payments provided for in this Lease to be made to the Lessor shall be made by check payable to the order of, and mailed to, the Lessor at 130 South LaSalle Street, Chicago, Illinois 60690, Attention: Harold Z. Novak, Senior Vice President and Trust Officer, or at such other place as the Lessor or its assigns shall specify in writing.

2.4. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessees against the Lessor or the Trustor under this Lease or otherwise or against the Manufacturer or against the Assignee; nor except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessees be otherwise affected, by reason of any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of Lessees' use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessees hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment is placed and ready for delivery to the Lessor on the Lessees' lines, or is stored for the Lessor on the Lessees' lines or leaves the Lessees' lines for off-line delivery to the Lessor.

SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of delivery to and acceptance by the Lessees of such Item of Equipment and, subject to the provisions of Section 11 and 20 hereof, shall terminate on July 1, 1989.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. Retention of Title. The Lessor is acquiring full legal title to the Equipment as Vendee under the Conditional Sale Agreement (but only upon compliance with all the terms and conditions thereof) and, it is understood that Lessees shall acquire no right, title and interest to the Equipment except hereunder notwithstanding the delivery of the Equipment to and the possession and use thereof by the Lessees or the Clinchfield Railroad Company.

4.2 Duty to Number and Mark Equipment. The Lessees will cause each Item of Equipment to be kept numbered with the road number as set forth in Schedule A and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height as follows:

"Leased from Exchange National Bank of Chicago, as Lessor and Trustee-Vendee, and subject to a Security Interest recorded with the I.C.C."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16 hereof. The Lessees will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessees will not change the road number of any Item of Equipment except with the consent of the Lessor and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessees and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

4.3. Prohibition Against Certain Designations. Except as above provided, the Lessees will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided,

however, that the Lessees may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessees or their affiliates, including without limitation the Clinchfield Railroad Company, on railroad equipment used by them of the same or a similar type for convenience of identification of the right of the Lessees to use the Equipment under this Lease.

SECTION 5. DISCLAIMER OF WARRANTIES.

AS BETWEEN LESSOR AND LESSEES, LESSOR LEASES THE EQUIPMENT, AS-IS WITHOUT WARRANTY OR REPRESENTATION EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, OR (D) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEES, ARE TO BE BORNE BY THE LESSEES. The Lessor hereby appoints and constitutes the Lessees its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessees, as their interests may appear, but in all cases at the sole cost and expense of the Lessees, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer.

SECTION 6. LESSEE'S INDEMNITY.

6.1. Scope of Indemnity. The Lessees shall defend, indemnify and save harmless the Lessor and the Trustor and their successors and assigns from and against:

(a) any and all loss or damage of or to the Equipment, usual wear and tear excepted, and

(b) any claim, cause of action, damages, liability, cost or expense (including counsel fees and costs in connection therewith, other than counsel fees and other expenses incident to the execution and delivery of the Trust Agreement and the Operative Agreements (as defined in the Trust Agreement)) which may be incurred in any manner by or for the account of any of them (i) relating to the Equipment or any part thereof, including without limitation, the construction, purchase, delivery, installation, ownership, leasing or return of the Equipment or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects are latent or discoverable by the Lessor or by the Lessees), (ii) by reason or as the result of any act or omission of the Lessees for themselves as agent or attorney-in-fact for the Lessor hereunder, (iii) as a result of claims for patent infringements, or (iv) as a result of claims for negligence or strict liability in tort.

6.2. Continuation of Indemnities and Assumptions. The indemnities and assumptions of liability in this Section 6 contained shall continue in full force and effect notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise; provided, however, that such indemnities and assumption of liability shall not apply in respect of any matters referred to in subsection (a) or clause (i) or (ii) of subsection (b) of Section 6.1 hereof, occurring after the termination of this Lease, except for any such matters occurring after the termination arising in connection with the Lessees' assembling, delivering, storing or transporting of the Equipment as provided in Sections 13 or 15 as the case may be. The Lessees shall be entitled to control, and shall assume full responsibility for, the defense of such claim or liability.

SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessees agree to comply with all governmental laws, regulations, requirements and rules (including the rules of the United States Department of Transportation) with respect to the use, maintenance and operation of each Item of Equipment subject to this Lease. In case any equipment or appliance is required to be installed on such Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessees agree to make such changes, additions and replacements.

SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessees shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessees shall, at their own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted. Except as required by Section 7 hereof, the Lessees shall not modify any Item of Equipment without the written authority and approval of the Lessor which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessees upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

SECTION 9. LIENS ON THE EQUIPMENT.

The Lessees shall pay or satisfy and discharge any and all claims against, through or under the Lessees and their successors or assigns which, if unpaid, might constitute or become a lien or a charge upon the Equipment, and any liens or charges which may be

levied against or imposed upon any Item of Equipment as a result of the failure of the Lessees to perform or observe any of its covenants or agreements under this Lease, but the Lessees shall not be required to pay or discharge any such claims so long as they shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment. The Lessees' obligations under this Section 9 shall survive termination of the Lease.

SECTION 10. FILING, PAYMENT OF FEES AND TAXES.

10.1. Filing. Prior to the delivery and acceptance of the first Item of Equipment, the Lessees will, at their sole expense, cause this Lease, the Conditional Sale Agreement and the first assignment thereof to be duly filed, recorded or deposited in conformity with Section 20c of the Interstate Commerce Act and in such other places within or without the United States as the Lessor may reasonably request for the protection of its title or the security interest of the Assignee and will furnish the Lessor proof thereof. The Lessees will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will re-file, re-register, or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to, or the Assignee's security interest in, the Equipment to the satisfaction of the Lessor's or the Assignee's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor proof of such filings and an opinion of the Lessees' counsel that such action has been properly taken. The Lessees will pay all costs, charges and expenses incident to any such filing, re-filing, recording and re-recording or depositing and re-depositing of any such instruments or incident to the taking of such action.

10.2. Payment of Taxes. The Lessees, or the Lessor at the Lessees' expense, shall report, pay and discharge when due all license and registration fees, assessments, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees and governmental charges similar or dissimilar to the foregoing (excluding any tax measured by the Lessor's net income and any gross receipts or gross income taxes in substitution for or by way of relief from the payment of taxes measured by such net income, provided that the Lessees agree to pay that portion of any such tax on or measured by rentals payable hereunder or the net income therefrom which is in direct substitution for, or which relieves the Lessees from, a tax which the Lessees would otherwise be obligated to pay under the terms of this Section) together with any penalties or interest thereon, imposed

by any state, federal or local government upon any Item of Equipment and whether or not the same shall be assessed against or in the name of the Lessor, the Lessees, or the Trustor; provided, however, that the Lessees shall not be required to pay or discharge any such tax or assessment (i) so long as they shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment; however, the Lessees shall reimburse the Lessor for any damages or expenses resulting from such failure to pay or discharge, or (ii) as to assessments against or in the name of anyone other than the Lessees, until 20 days after written notice thereof shall have been given to the Lessees.

SECTION 11. INSURANCE, PAYMENT FOR CASUALTY OCCURRENCE OR EQUIPMENT UNSERVICEABLE FOR USE.

11.1. Insurance. The Lessees will at all times after delivery and acceptance of each Item of Equipment, at their own expense, keep or cause to be kept each such Item insured by a reputable insurance company or companies in amounts and against risks customarily insured against by other railroad companies on similar equipment.

11.2. Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessees, irreparably damaged or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease (any such occurrence, except for any requisition which by its terms does not exceed the term of this Lease, being hereinafter called a Casualty Occurrence), the Lessees shall promptly and fully (after they have knowledge of such Casualty Occurrence) inform the Lessor in regard thereto.

11.3. Payment for Casualty Loss. When the aggregate Casualty Value (as herein defined) of Items of Equipment having suffered a Casualty Occurrence (exclusive of Items of Equipment having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Lessor pursuant to this Section 11) shall exceed \$400,000, the Lessees, on the next succeeding Fixed Rental payment date, shall pay to the Lessor the Fixed Rental installment due on such Fixed Rental payment date for such Items of Equipment plus a sum equal to the Casualty Value of such Item or Items of Equipment as of the date of such payment; provided that notwithstanding the foregoing the Lessees shall on the last Fixed Rental payment date of each calendar year pay to the Lessor a sum equal to the Casualty Value of any Item or Items of Equipment which have suffered a Casualty Occurrence during such calendar year or any prior year for which no payment has previously been made to the Lessor pursuant to this Section 11.3.

11.4. Rent Termination. Upon (and not until) payment of the Casualty Value in respect of any Item or Items of Equipment and the Fixed Rental installment due on such payment date, the obligation to pay rent for such Item or Items of Equipment accruing subsequent to the payment date of such Casualty Value shall terminate, but the Lessees shall continue to pay rent for all other Items of Equipment.

11.5. Disposition of Equipment. The Lessees shall, as agent for the Lessor, dispose of such Item or Items of Equipment having suffered a Casualty Occurrence as soon as it is able to do so for the fair market value thereof. Any such disposition shall be on an "as is", "where is" basis without representation or warranty, express or implied. As to each separate Item of Equipment so disposed of the Lessees may retain all amounts of such price plus any insurance proceeds and damages received by the Lessees by reason of such Casualty Occurrence up to the Casualty Value attributable thereto and shall remit the excess, if any, to the Lessor. In disposing of such Item or Items of Equipment, the Lessees shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item or Items of Equipment.

11.6. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the Casualty Occurrence) equal to that percentage of the original cost to the Lessor of such Item of Equipment set forth in the Schedule of Casualty Value attached hereto as Schedule C opposite such date of payment.

11.7. Risk of Loss. The Lessees shall bear the risk of and, except as hereinabove in this Section 11 provided, shall not be released from their obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the delivery and acceptance of each Item of Equipment and continuing until payment of the Casualty Value and the Interim Rental and Fixed Rental installments due on or prior to the payment date of such Casualty Value in respect of such Item of Equipment have been made, such Item or the salvage thereof has been disposed of by the Lessees and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.8. Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessees' obligation to pay rent shall continue for the duration of such requisitioning or taking. The Lessees shall be entitled to receive and retain for their own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession to an amount equal to the rent paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property.

SECTION 12. ANNUAL REPORTS.

12.1. Duty of Lessee to Furnish. On or before May 1 in each year, commencing with the year 1975, the Lessees will furnish to the Lessor or its assigns an accurate statement, as of the preceding December 31 (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.2 hereof shall have been preserved or replaced.

12.2. Lessor's Inspection Rights. The Lessor and the Assignee each shall have the right, at its sole cost and expense by its authorized representative, to inspect the Equipment and the

Lessees' records with respect thereto, at such reasonable times as shall be reasonably necessary to confirm to the Lessor or, as the case may be, the Assignee the existence and proper maintenance thereof during the continuance of this Lease.

SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessees will, at their own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks of the Lessees as the Lessor may designate, or in the absence of such designation, as the Lessees may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 90 days and transport the same at any time within such 90 day period to any reasonable place on the lines of railroad operated by the Lessees or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessees. All movement and storage of each such Item is to be at the risk and expense of the Lessees. During any such storage period the Lessees will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, to inspect the same; provided, however, that the Lessees shall not be liable, except in the case of negligence of the Lessees or of their employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessees requiring specific performance of the covenants of the Lessees to so assemble, deliver, store and transport the Equipment.

SECTION 14. DEFAULT.

14.1. Events of Default. Any of the following events shall constitute an Event of Default hereunder:

(a) Default shall be made in the payment of any part of the rental or other sums provided in Section 2 hereof or in Section 11 hereof and such default shall continue for ten days; or

(b) Either or both of the Lessees shall make or permit any unauthorized assignment or transfer of this Lease, or any unauthorized possession of the Equipment, or any

portion thereof, and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having any interest therein and to recover possession of such Equipment within 30 days after written notice from the Lessor to the Lessees demanding such cancellation and recovery of possession; or

(c) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of either or both of the Lessees contained herein and such default shall continue for 30 days after written notice from the Lessor to the Lessees, specifying the default and demanding the same to be remedied; or

(d) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against either of the Lessees and (unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of such Lessee under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees within 30 days after such appointment or 60 days after such petition shall have been filed, whichever shall be earlier; or

(e) Any other proceedings shall be commenced by or against either of the Lessees for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) and (unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of such Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for such Lessee or for the property of such Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier.

14.2. Remedies. If any Event of Default has occurred and is continuing, the Lessor, at its option, may:

(a) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessees of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) By notice in writing to the Lessees, terminate this Lease, whereupon all right of the Lessees to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessees shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of either or both of the Lessees or other premises where any of the Equipment may be located, with judicial process or without judicial process if this can be done without breach of the peace, and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessees, or their successors or assigns, to use the Equipment for any purpose whatever, but the Lessor, shall, nevertheless, have a right to recover from the Lessees any and all amounts which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by a fraction of which the numerator is such accrued number of days in such full rental period and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessees (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Item of Equipment, which represents the excess of the present worth, at the time of such termination, of all rentals for such Item of Equipment which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then fair rental value of such Item of Equipment for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates to be obtainable for the use of the Item of Equipment during such period, such present worth to be computed in each case on a basis of a 5.25% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, and (ii) any damages and expenses including reasonable attorney's fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease, other than for the payment of rental; and

(c) In the event of any such termination and if the Lessor shall have sold any Item of Equipment (for the fair market value thereof) pursuant to Section 14.2(b) hereof, Lessor, in lieu of exercising its rights under said Section 14.2(b) with respect to such Item, may, if it shall so elect, demand that Lessees pay to Lessor and Lessees shall pay to the Lessor, as damages for loss of a bargain and not as a penalty, any and all amounts which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by a fraction of which the numerator is such accrued number of days in such full rental period and the denominator is the total number of days in such full rental period) plus the amount of any deficiency between the net proceeds of such sale and the Casualty Value of such Item, computed as of the semiannual Fixed Rental period for such Item, during which such sale occurs, together with interest at the rate of 5.25% per annum on the amount of such deficiency from the date of said sale until the date of actual payment of such deficiency.

14.3. Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessees hereby waive any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessees hereby waive any and all existing or future claims of any right to assert any off-set against the rent payments due hereunder, and agrees to make the rent payments regardless of any off-set or claim which may be asserted by the Lessees on their behalf in connection with the lease of the Equipment.

14.4. Lessor's Failure to Exercise Rights. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

14.5. Termination by Assignee of Conditional Sale Agreement. Anything in this Lease to the contrary notwithstanding, if the Assignee of the Conditional Sale Agreement shall, upon the occurrence of an Event of Default as defined therein, state in a written notice to the Lessor and Lessees that this Lease terminates, this Lease shall, immediately upon receipt by Lessees of such notice, terminate as to all the Items of Equipment and the rights of the Lessees hereunder shall at all times and in all respects be subject and subordinate to the rights and remedies of the Assignee under the Conditional Sale Agreement.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1. Lessee's Duty to Return. If the Lessor or the Assignee shall terminate this Lease pursuant to Section 14 hereof, the Lessees shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessees shall at their own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place such Equipment in such reasonable storage place on the Lessees' lines of railroad as the Lessor may designate or, in the absence of such designation, as the Lessees may select;

(b) Permit the Lessor to store such Equipment in such reasonable storage place on the Lessees' lines of railroad for a period not exceeding 90 days at the risk of the Lessees; and

(c) Transport the Equipment, at any time within such 90 days' period, to any place on the lines of railroad operated by the Lessees or to any connecting carrier for shipment, all as the Lessor may reasonably direct upon not less than 30 days' written notice to the Lessees.

15.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessees requiring specific performance of the covenants of the Lessees so to assemble, deliver, store and transport the Equipment.

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligations of the Lessees under the foregoing provisions of this Section 15, the Lessees hereby irrevocably appoint the Lessor as the agent and attorney of Lessees, with full power and authority, at any time while the Lessees are obligated to deliver possession of any Items of Equipment to Lessor, to demand and take possession of such Item of Equipment in the name and on behalf of the Lessees from whosoever shall be at the time in possession of such Item.

SECTION 16. ASSIGNMENTS BY LESSOR.

This Lease and all rent and other sums due and to become due hereunder have been assigned to the Assignee pursuant to Section 25 of the Conditional Sale Agreement, and all rent and other sums due and to become due hereunder shall be paid by wire transfer of Federal funds to the Assignee at 15th and Chestnut Streets, Philadelphia, Pennsylvania 19101, Attention: Corporate Trust Department, or at such other place as the Assignee shall specify in writing. Without limiting the foregoing, the Lessees further acknowledge and agree that (i) the rights of the Assignee in and to the sums payable by the Lessees under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interruption from whatsoever cause (other than from a wrongful act of the Assignee) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessees or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of the Assignee, the Lessees shall be unconditionally and absolutely obligated to pay the Assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the Assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the Assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor.

SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION.

17.1. Lessee's Rights to the Equipment. So long as the Lessees shall not be in default under this Lease, the Lessees shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessees shall not assign, transfer or encumber

their leasehold interest under this Lease in any of the Equipment. The Lessees shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of their possession or control, any of the Equipment, except to the extent permitted by the provisions of Section 17.2 hereof.

17.2. Use and Possession on Lines Other Than Lessees' Own. So long as the Lessees shall not be in default under this Lease, the Lessees shall be entitled to the possession of the Equipment, and to the use thereof upon the lines of the Clinchfield Railroad Company or of railroads owned or operated by the Lessees (either alone or jointly) or by any corporation, a majority of whose voting stock (i.e., having ordinary voting power for the election of a majority of its Board of Directors) is owned directly or indirectly by the Lessees (either alone or jointly), or upon lines of railroad over which the Lessees or either such corporation has trackage or other operating rights or over which equipment of, either of the Lessees is regularly operated pursuant to contract, and to permit the use of the Equipment upon connecting and other railroads over which through service may from time to time be afforded, and to permit the subletting or leasing temporarily or to permit the emergency use by other parties of any Item of Equipment in the normal course of business, but only upon and subject to all the terms and conditions of this Lease. Notwithstanding the foregoing, the Lessees will not assign any Item of Equipment to service including the regular operation and maintenance thereof outside the United States of America. No assignment, sublease, or agreement entered into by the Lessees hereunder shall relieve the Lessees of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

17.3. Merger, Consolidation or Acquisition of Lessees. Nothing in this Section 17 shall be deemed to restrict the right of Lessees to assign or transfer their leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation (which shall have duly assumed the obligations hereunder of Lessees) into or with which both of the Lessees shall have become merged or consolidated or which shall have acquired the property of Lessees as an entirety or substantially as an entirety.

SECTION 18. OPINIONS OF LESSEES' COUNSEL.

On or prior to the Closing Date (as defined in Section 3.5 of the Conditional Sale Agreement), each Lessee will deliver to the Lessor fifteen counterparts of the written opinion of counsel for such Lessee addressed to the Lessor and to the Assignee, in scope and substance satisfactory to the Lessor, to the effect that:

- (a) Such Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of its state of incorporation;

(b) Such Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and is duly qualified to do business as a foreign corporation in all states in which such qualification is necessary to carry out the terms of the Lease;

(c) This Lease, the Acquisition Agreement of even date herewith among the Lessor, the Lessees and the Manufacturer and the Finance Agreement of even date herewith among the Lessees, the Assignee and certain institutional investors have each been duly authorized, executed and delivered by such Lessee and constitute the valid, legal and binding agreements of such Lessee enforceable in accordance with their respective terms;

(d) This Lease has been filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and no other filing, recording or depositing is necessary to protect the Lessor's title to the Equipment in the United States of America;

(e) No approval, consent or withholding of objection is required from any public regulatory body with respect to the entering into or performance by such Lessee of said Acquisition Agreement, said Finance Agreement or this Lease;

(f) The execution and delivery by such Lessee of said Acquisition Agreement, said Finance Agreement and this Lease do not violate any provision of any law, any order of any court or governmental agency, the Charter or By-laws of such Lessee, or any indenture, agreement, or other instrument to which such Lessee is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of such Lessee, except upon the leasehold estate of such Lessee hereunder; and

(g) As to any other matter which the Lessor shall reasonably request.

SECTION 19. INTEREST ON OVERDUE RENTALS AND AMOUNTS PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals due hereunder, or amounts expended by the

Lessor on behalf of the Lessees, shall result in the additional obligation on the part of the Lessees to pay an amount equal to 9.5% per annum (or the lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. OPTIONS TO RENEW.

Provided that the Lessees are not in default hereunder, the Lessees shall have the following renewal options:

(a) The Lessees shall have the option to renew and extend this Lease as to all, but not less than all, of the Equipment leased hereunder for one or more additional renewal terms of such duration as may be agreed upon by the Lessor and the Lessees each upon and subject to the terms and conditions herein contained for the original term of this Lease; provided that the semiannual Fixed Rental payable for and during any such renewal term shall be an amount equal to the Fair Rental Value (as hereinafter defined) of such Items of Equipment. Each renewal term shall commence immediately upon the expiration of the preceding term. The Lessee shall give the Lessor written notice of any such election six months prior to the commencement of any renewal term provided for in this Section 20.

(b) The "fair rental value" shall be an amount mutually agreed upon by the Lessor and the Lessees; provided that if the Lessor and the Lessees are unable to agree upon the fair rental value of the Equipment within 30 days after receipt by the Lessor of the notice of the Lessees' election to exercise any renewal option, the fair rental value shall be determined by an appraiser selected by mutual agreement of the Lessor and the Lessees. If the Lessor and the Lessees are not able to agree upon an appraiser, or if the fair rental value is not so determined within 90 days after receipt by the Lessor of the Lessees' election to purchase, the same shall be determined by American Appraisal Company.

(c) Unless the Lessees have given the Lessor six months notice to renew this Lease in respect of the Items of Equipment as provided in this Section 20, all of such Items of Equipment shall be returned to the Lessor at the end of the original term, or the then current renewal term, as the case may be, in accordance with Section 13 hereof.

SECTION 21. MISCELLANEOUS.

21.1. Notices. Any notice required or permitted to be given by party hereto to the others shall be deemed to have been given when deposited in the United States certified mails, first class postage prepaid, addressed as follows:

If to the Lessor: Exchange National Bank of Chicago,
as Trustee under Clinchfield
Trust No. 74-1
130 South LaSalle Street
Chicago, Illinois 60690
Attention: Harold Z. Novak
Senior Vice President
and Trust Officer

With a copy to:

Westinghouse Credit Corporation
Three Gateway Center
Pittsburgh, Pennsylvania 15222
Attention: Dale D. Peters
Manager of Lease Operations

If to the Lessees: Seaboard Coast Line Railroad
Company
3600 West Broad Street
Richmond, Virginia 23230
Attention: Leonard G. Anderson
Vice President and
Treasurer

and
Louisville & Nashville Railroad
Company
908 W. Broadway
Louisville, Kentucky 40203
Attention: C. Hayden Edwards
Vice President, Secretary
and Treasurer

or addressed to such party at such other address as such party shall hereafter furnish to the other parties in writing.

21.2. Execution in Counterparts. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

22.3. Law Governing. This Lease shall be construed in accordance with the laws of Illinois; provided, however, that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

21.4. Limitations of Liability. It is expressly understood and agreed by and between the Lessor, the Trustor and the Lessees and their respective successors and assigns, that this Lease is executed by Exchange National Bank of Chicago, not individually or personally but solely as Trustee under the Trust Agreement in the exercise

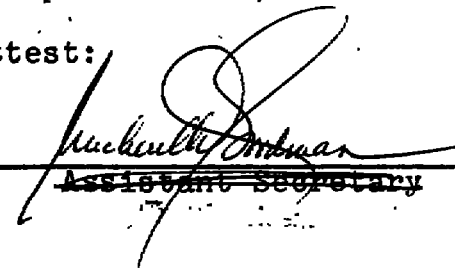
of the power and authority conferred and vested in it as such Trustee (and Exchange National Bank of Chicago hereby warrants that it possesses full power and authority to enter into and perform this Lease); and it is expressly understood and agreed that, except in the case of gross negligence or wilful misconduct of the Lessor or the Trustor, nothing herein contained shall be construed as creating any liability on the Lessor or the Trustor, individually or personally, to perform any covenant either express or implied contained herein, all such liability, if any, being expressly waived by the Lessees and by each and every person now or hereafter claiming by, through or under the Lessees; and that so far as Lessor or the Trustor, individually or personally are concerned, the Lessees and any person claiming by, through or under the Lessees shall look solely to the Trust Estate as defined in the Trust Agreement for the performance of any obligation under this Lease.

EXCHANGE NATIONAL BANK OF CHICAGO,
as Trustee under Clinchfield Trust
No. 74-1

By 
Its Vice President

(Corporate Seal)

Attest:


Assistant Secretary

LESSOR

SEABOARD COAST LINE RAILROAD
COMPANY

By 
Its Vice President and Treasurer

(Corporate Seal)

Attest:


Assistant Secretary

LOUISVILLE & NASHVILLE RAILROAD
COMPANY

By 
Its Vice President, Secretary
and Treasurer

(Corporate Seal)

Attest:


Assistant Secretary

JOINT AND SEVERAL LESSEES

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 13 day of February, 1974, before me personally appeared HAROLD Z. NOVAK, to me personally known, who being by me duly sworn, says that he is a Senior Vice President of EXCHANGE NATIONAL BANK OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Phyllis B. Fayton
Notary Public

(Seal)

My Commission Expires: Jan 21, 1976

STATE OF VIRGINIA)
) SS
CITY OF RICHMOND)

On this 15th day of February, 1974, before me personally appeared Leonard G. Anderson, to me personally known, who being by me duly sworn, says that he is the Vice President and Treasurer of SEABOARD COAST LINE RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

J. H. Chapman
Notary Public

(Seal)

My Commission Expires: Jan 1, 1976

NEW YORK
STATE OF ~~KENTUCKY~~)
NEW YORK) SS
COUNTY OF ~~JEFFERSON~~)

On this 14th day of February, 1974, before me personally appeared C. Hayden Edwards, to me personally known, who being by me duly sworn, says that he is a ~~VICE PRESIDENT~~ ^{VICE PRESIDENT} of LOUISVILLE & NASHVILLE RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

Donald J. Harons
Notary Public

My Commission Expires: March 30, 1975

SCHEDULE A
(to Equipment Lease)

MANUFACTURER: General Motors Corporation
(Electro-Motive Division)

PLANT OF MANUFACTURER: LaGrange, Illinois

DESCRIPTION OF EQUIPMENT: 8 3600 H.P. Model EMD SD-45-2
Locomotives, bearing Road Numbers
C.R.R. 3617 to 3624, both inclusive

SPECIFICATIONS: General Motors Locomotive Specifi-
cation 8088, as amended by Amendment
8088-3

BASE PRICE: \$360,317.00 per Item (\$2,882,536 for
8 Items, excluding off-line freight
charges)

DELIVER TO: Clinchfield Railroad Company

PLACE OF DELIVERY: Dante, Virginia

ESTIMATED DELIVERY DATES: February, 1974

OUTSIDE DELIVERY DATE: March 1, 1974

FIXED RENTAL PAYMENTS: Thirty (30) semiannual Fixed
Rental installments in arrears
each equal to 4.57843% of the
Purchase Price of each Item of
Equipment.

Lessees: Seaboard Coast Line Railroad Company and Louisville &
Nashville Railroad Company, jointly and severally.

Assignee of Manufacturer: The First Pennsylvania Banking and
Trust Company

SCHEDULE B
(to Equipment Lease)

CERTIFICATE OF ACCEPTANCE
UNDER EQUIPMENT LEASE

To: Exchange National Bank of Chicago,
as Trustee under Clinchfield Trust No. 74-1
("Trustee")

General Motors Corporation
(Electro-Motive Division), ("Manufacturer")

I, a duly appointed inspector and authorized representative of SEABOARD COAST LINE RAILROAD COMPANY and LOUISVILLE & NASHVILLE RAILROAD COMPANY (collectively the "Lessees") and of the above named Trustee, do hereby certify that I have inspected, received, approved and accepted delivery, on behalf of the Lessees and under the Equipment Lease dated as of January 15, 1974 between the Trustee and the Lessees, and on behalf of the Trustee under the Conditional Sale Agreement dated as of January 15, 1974 among General Motors Corporation (Electro-Motive Division) (the "Manufacturer"), the Trustee and the Lessees, of the following Items of Equipment ("Equipment"):

TYPE OF EQUIPMENT:

MANUFACTURER: General Motors Corporation (Electro-Motive Division)

PLACE ACCEPTED:

DATED ACCEPTED:

NUMBER OF ITEMS:

NUMBERED:

I do further certify that the foregoing Equipment is in good order and condition, and conforms to the Specifications applicable thereto, and at the time of delivery to the Lessees there was plainly, distinctly, permanently and conspicuously marked in contrasting colors upon each side of each Item of Equipment the following legend in letters not less than one inch in height:

"Leased from Exchange National Bank of Chicago,
as Lessor and Trustee-Vendee, and subject to a
Security Interest Recorded with the I.C.C."

(Clinchfield Trust No. 74-1)

The execution of this Certificate will in no way relieve or decrease the responsibility of the Manufacturer of the Equipment for warranties it has made with respect to the Equipment.

Inspector and Authorized
Representative of Lessees and Trustee

SCHEDULE C
(to Equipment Lease)

SEABOARD COAST LINE RAILROAD COMPANY
and
LOUISVILLE & NASHVILLE RAILROAD COMPANY

SCHEDULE OF CASUALTY VALUE

The Casualty Value of an Item of Equipment payable on any Fixed Rental payment date shall mean an amount equal to the per cent of the Purchase Price of such Item, set forth opposite such Fixed Rental payment date in the following schedule (identified by consecutive number thereof):

<u>Fixed Rental payment date on which Casualty Value is Paid (Payment in Addition to Fixed Rental Payment)</u>		<u>Percentage of Purchase Price Payable As Casualty Value</u>
July 1, 1974	1st	101.86
January 1, 1975	2nd	102.19
July 1, 1975	3rd	102.17
January 1, 1976	4th	101.86
July 1, 1976	5th	101.31
January 1, 1977	6th	100.51
July 1, 1977	7th	94.73
January 1, 1978	8th	93.47
July 1, 1978	9th	91.99
January 1, 1979	10th	90.29
July 1, 1979	11th	83.62
January 1, 1980	12th	81.50
July 1, 1980	13th	79.24
January 1, 1981	14th	76.90
July 1, 1981	15th	69.71
January 1, 1982	16th	67.20
July 1, 1982	17th	64.59
January 1, 1983	18th	61.89
July 1, 1983	19th	59.09
January 1, 1984	20th	56.18
July 1, 1984	21st	53.16
January 1, 1985	22nd	50.03
July 1, 1985	23rd	46.78
January 1, 1986	24th	43.41
July 1, 1986	25th	39.90
January 1, 1987	26th	36.27
July 1, 1987	27th	32.49
January 1, 1988	28th	28.56
July 1, 1988	29th	24.48
January 1, 1989	30th	20.25
July 1, 1989	31st and thereafter	15.00